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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,726	09/19/2003	Edward Keijzer	0470-031840	6052
28289	7590	07/16/2007		
THE WEBB LAW FIRM, P.C. 700 KOPPERS BUILDING 436 SEVENTH AVENUE PITTSBURGH, PA 15219			EXAMINER BUTLER, MICHAEL E	
			ART UNIT 3653	PAPER NUMBER
			MAIL DATE 07/16/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/666,726	Applicant(s) KEIJZER	
	Examiner Michael Butler	Art Unit 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-22 and 24 is/are pending in the application.
- 4a) Of the above claim(s) 21-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 13-20 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action, and apply to this and any subsequent Office Actions.

Priority

1. Applicant's claim of priority to application 1021498 filed 9/19/2002 in the Netherlands is acknowledged.

Election/Restriction

2. Applicant's election of invention I with traverse of the restriction requirement is acknowledged and made final. Applicant's amendment to claim 20 is sufficient to move it to group I from the original group II.

3. Claims 21-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Claims 21-22 are subject to rejoinder if an allowable base claim is found.

Information Disclosure Statement

4. The applicant argues the restriction requirement ought be withdrawn alleging that searching for and examining a dispenser with a gripper element would not burden the examiner. However the recognition of differing classes for the art and differing scope of search materials, databases, and product lines evidences the burden in examining the separate invention. No common prior art anticipating or anticipating the group I and II claims was noticed in the search of the Group II claims, further evidencing distinction between groups I and II. Accordingly, the restriction requirement is maintained.

The information disclosure statement filed 4/13/2007 fails to comply with 37 CFR 1.97(c) because it lacks a statement as specified in 37 CFR 1.97(e). It has been placed in the application file, but the information referred to therein has not been considered.

The information disclosure statement filed 4/13/2007 fails to comply with 37 CFR 1.97(c) because it lacks the fee set forth in 37 CFR 1.17(p). It has been placed in the application file, but the information referred to therein has not been considered.

The information disclosure statement filed 4/13/2007 fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim(s) 24 is/are rejected under 35 U. S. C. 112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is insufficient antecedent basis in the claims for the following term(s): cl 24 the step.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

8. Claims 13-16 and 18-20 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Frebes et al. 6427867 which discloses all the claimed elements including:

(Re: cl 13) An apparatus for dispensing elongated objects, comprising a store provided with an elongated dispensing opening for the objects (c 4 L 4-67); and a dispenser assembly including a conveyor positioned beneath the dispensing opening and adapted to move, wherein the conveyor comprises a central part, wherein the central part is bordered on either side by a support part distanced away therefrom and positioned to support one end of the elongated object, wherein the central part includes recesses to accommodate the objects, and wherein the recesses extend essentially parallel to the dispensing opening (c 4 L 4-67);

(Re: cl 14) the elongated dispensing opening is made directly adjoining the central part and is adapted to contain a plurality of objects alongside one another (c 4 L 4-67);

(Re: cl 15) the central part comprises a cylinder (28)

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(Re: cl 16) the support parts comprise a disc (30, 32)

(Re: cl 18) the support parts and the central part execute a same transporting movement (c 4 L 4-67);

(Re: cl 19) the support parts comprise a disc, and the cylinder and discs are mounted on a common shaft (28 with 30/32 fig 2)

(Re: cl 24) feeding elongated objects in a store;

dispensing the elongated objects through a dispensing opening of the store to a conveyor (c5 L 37-52),

wherein the conveyor is adapted to transport the elongated objects stepwise in a main direction over a distance that is smaller than the step (c5 L 37-52).

(Re: cl 20) An apparatus for dispensing elongated objects such as plant stakes, comprising:

a series of dispenser assemblies (31); and

a store provided with a plurality of elongated dispensing openings for dispensing the objects therethrough, wherein the store is in communication with each of the dispenser assemblies and is adapted to dispense a discrete number of the objects into each of the dispenser assemblies (c 4 L 4-67);,

wherein each of the dispenser assemblies include a conveyor positioned beneath the dispensing opening and adapted to move, wherein the conveyor comprises a central part, wherein the central part is bordered on either side by a support part distanced away therefrom and positioned to support one end of the elongated object, wherein the central part includes recesses to accommodate the objects, and wherein the recesses extend essentially parallel to the dispensing opening, wherein axes of each of the recesses are arranged parallel and in line with one after the other (c 4 L 4-67).

9. Claims 13-20 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by

Whitesides 18044580 which discloses all the claimed elements including:

(Re: cl 13) An apparatus for dispensing elongated objects comprising a store provided with an elongated dispensing opening for the objects opening (p3 L 15-40) and a dispenser assembly including a conveyor positioned beneath the dispensing opening and adapted to move (E7/E4), wherein the conveyor comprises a central part, wherein the central part is bordered on either side by a support part distanced away therefrom and positioned to support one end of the elongated object (p3 L 15-40; f2), wherein the central part includes recesses to accommodate the objects, and wherein the recesses extend essentially parallel to the dispensing opening (p3 L 15-40)

(Re: cl 14) the elongated dispensing opening is made directly adjoining the central part and is adapted to contain a plurality of objects alongside one another (A2)

(Re: cl 15) the central part comprises a cylinder (palso p2 L 24-81)

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(Re: cl 16) the support parts comprise a disc (p2 L 24-56)

(Re: cl 17) the support parts are not provided with recesses (p3 L 16-39)

(Re: cl 18) the support parts and the central part execute a same transporting movement (p3 L 6-39)

(Re: cl 19) (15) the support parts comprise a disc, and the cylinder and discs are mounted on a common shaft (p2 L 24-56)

(Re: cl 24) feeding elongated objects in a store, dispensing the elongated objects through a dispensing opening of the store to a conveyor (p3 L 42-75), wherein the conveyor is adapted to transport the elongated objects stepwise in a main direction over a distance that is smaller than the step (p3 L 42-75).

(Re: cl 20) An apparatus for dispensing elongated objects such as plant stakes, comprising:

a series of dispenser assemblies (p1 L 69-p3 L 39); and

a store provided with a plurality of elongated dispensing openings for dispensing the objects therethrough (A2), wherein the store is in communication with each of the dispenser assemblies and is adapted to dispense a discrete number of the objects into each of the dispenser assemblies (p3 L 15-40)

wherein each of the dispenser assemblies include a conveyor positioned beneath the dispensing opening and adapted to move, wherein the conveyor comprises a central part, wherein the central part is bordered on either side by a support part distanced away therefrom and positioned to support one end of the elongated object, wherein the central part includes recesses to accommodate the objects, and wherein the recesses extend essentially parallel to the dispensing opening, wherein axes of each of the recesses are arranged parallel and in line with one after the other (p3 L 15-40).

10. Claims 13-20 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by

Hebel 2776035 which discloses all the claimed elements including:

(Re: cl 13) An apparatus for dispensing elongated objects such as plant stakes, comprising a store provided with an elongated dispensing opening for the objects; and a dispenser assembly including a conveyor positioned beneath the dispensing opening and adapted to move, wherein the conveyor comprises a central part, wherein the central part is bordered on either side by a support part distanced away therefrom and positioned to support one end of the elongated object, wherein the central part includes recesses to accommodate the objects, and wherein the recesses extend essentially parallel to the dispensing opening (c2 L 37-c3 L 41)

(Re: cl 14) the elongated dispensing opening is made directly adjoining the central part and is adapted to contain a plurality of objects alongside one another (c2 L 37-c3 L 41)

(Re: cl 15) the central part comprises a cylinder 31

(Re: cl 16) the support parts comprise a disc 34,33

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(Re: cl 17) the support parts are not provided with recesses 34,33

(Re: cl 18) the support parts and the central part execute a same transporting movement (c3 L 25-40)

(Re: cl 19) (15) the support parts comprise a disc, and the cylinder and discs are mounted on a common shaft (34,33,31 on 32 fig 2)

(Re: cl 24) feeding elongated objects in a store;

dispensing the elongated objects through a dispensing opening of the store to a conveyor (c2 L 37-c3 L 41),

wherein the conveyor is adapted to transport the elongated objects stepwise in a main direction over a distance that is smaller than the step (c3 L 10-55)

(Re: cl 20) An apparatus for dispensing elongated objects such as plant stakes, comprising:

a series of dispenser assemblies (27/28 fig 1); and

a store provided with a plurality of elongated dispensing openings for dispensing the objects therethrough, wherein the store is in communication with each of the dispenser assemblies and is adapted to dispense a discrete number of the objects into each of the dispenser assemblies opening (c2 L 37-c3 L 41)

wherein each of the dispenser assemblies include a conveyor positioned beneath the dispensing opening and adapted to move, wherein the conveyor comprises a central part, wherein the central part is bordered on either side by a support part distanced away therefrom and positioned to support one end of the elongated object, wherein the central part includes recesses to accommodate the objects, and wherein the recesses extend essentially parallel to the dispensing opening, wherein axes of each of the recesses are arranged parallel and in line with one after the other opening (c2 L 37-c3 L 41).

Response to Arguments

11. The applicant's arguments have been fully considered but they are unpersuasive in overcoming the rejections.

Regarding the lack of antecedent basis: "the step" can be found as the last two words of claim 24.

Regarding Frebes et al., the wheel or drum qualifies as a central part due its location near the center of the dispenser. As applicant admits, the slots support the pin. The plural slots are located on either side of the central part as in applicant's claims.

Regarding, Whiteside the flaps convey the elongate object toward the dispenser opening. The channel is a support item with the slot through which the centrally located flap passes through with support parts on either side.

Regarding, Hebel in contrast to applicant's assertion, with and components 33,34,35 support the elongate ice cream product and do read on the very broadly claimed limitations of applicants claim 13 and 20. The plural support items are located on either side of the central part.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (571) 272-6937.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey, can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MEB

7/7/07


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